IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND SIX

PRESENT
THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION Nos.7067 of 2003

Between:

R.Srinivas.

..... PETITIONER

AND

1.High Court of A.P., rep. by its Registrar (Admn.).
Hyderabad, and another.

.....RESPONDENTS

The Hon'ble Sri Justice Bilal Nazki
and
The Hon'ble Sri Justice Nooty Ramamohana Rao

Writ Petition No.7067 of 2003

Order:

Heard learned Counsel for the petitioner as well as the learned Counsel for the respondents.

This Writ Petition is filed by the petitioner challenging the proceedings of the first respondent *vide* ROC.No.195/2001, CII/1, dated 01-10-2002, dismissing him from Government service. The petitioner was charged with misconduct and a Charge Memo was issued to him on 13-07-2000. Charges 3 and 4 were framed against the petitioner and they read as under:

> '**CHARGE NO.3**:
>
> That you R.Srinivas, Attender, Junior Civil Judge's Court, Tandur, working on deputation in the Spl. J.F.C.M. Court, Hyd. East & North have received the fine amount of Rs.600/- and Rs.4400/- on 18-05-2000 and 20-06-2000 pertaining to the Spl. J.F.C.M. Court, Hyd. West and South from Sri K.Rajendra Babu, LDC., of the said Court for sake of remitting the same in the Bank and it is found on verification that you have not remitted the said amount in the Bank and that the challans through which you have paid the amount are not genuine challans and thereby you have misappropriated the fine amounts of the said Courts which amounts to gross negligence in discharging your duties and thereby rendered yourself liable for disciplinary action under A.P.C.S.(C.C.A. Rules) 1991.
>
> **CHARGE NO.4:**
>
> That you R.Srinivas, Attender, Junior Civil Judge's Court, Tandur, working on deputation in Spl. J.S.C.M. Court, Hyd. East & North have also not remitted the fine amount (1) Rs.900/- pertaining to challan No.20573, dt. 3-5-2000, (2) Rs.2400/- pertaining to Challan No.04178 dated 5-6-2000 and
>
> (3) Rs.1200/- Challan dated 8-6-2000 into the Bank and it is found that the above said challans

> are not found in the challan register and you have received the said amount from K.Rajendra Babu, LDC, and that you have misappropriated the above said fine amounts of the Court which amounts to gross-negligence in discharging your duties and thereby rendered yourself liable for disciplinary action under A.P.C.S. (C.C.A.Rules) 1991.'

After the enquiry was conducted, a show cause notice was given to the petitioner, and he replied to the show cause notice. Thereafter, the impugned order was passed. On appeal, the impugned order was confirmed by the High Court.

The only ground agitated before us by the learned Counsel for the petitioner seeking quashing of the impugned order is that no enquiry report was given to the petitioner after the enquiry was conducted, and according to him, in fact,
no enquiry had been conducted at all.

It is well settled law that mere non-supply of the enquiry report would not vitiate the enquiry unless the delinquent shows that he was prejudiced by not having been furnished with the enquiry report. Charges were framed against the petitioner, as he did not deposit the amounts in the treasury. On the other hand, he produced fake challans. After the enquiry, when a show cause notice was given to the petitioner

as to why he should not be dismissed from service, he replied in following terms:

> 'In reply to the Charge No.1 and Charge No.3 it is submitted that it was peak summer I have suffered sun stroke and was not able to stand in the long queue in the Bank. One person who was also a regular visitor to the bank asked me to take rest and also assured that he would pay the money and would hand over the challans. Believing the words in good faith, I have handed over a sum of Rs.4400/- dt.24-6-2000 and Rs.600/- dt.18-5-2000 to the said person. The said person has handed over the duly paid challans to me and I in turn have handed over the duly paid challans to the concerned clerk which are to be kept in the court records. Unfortunately it is discovered later that the said person has handed over the fake challans. I came to know about the said fact only when the Honourable Court has enquired into the matter. Immediately to rectify the mistake committed by me, I have approached your Honour and obtained permission to deposit Rs.5000/- into the Bank. Having obtained the permission from your Honour I have paid the said amount through challan No.15415 dated 17-7-2000. I have paid the said amounts from my pocket as I have been duped by the said person in the bank. I have not obtained any challans as referred to above.'

If one reads in between the lines, in this reply

the charge leveled against the petitioner was accepted and admitted by the petitioner although he tried to justify it stating that because he suffered sunstroke, he had given money to some one else to deposit in the treasury. Handing over the Government money to some stranger is itself misconduct. Since the petitioner had, as a matter of fact, accepted the allegations leveled against him, therefore, we do not think by non-supply of the enquiry report, any prejudice has been caused to him.

In this view of the matter, we do not find any merit in this Writ Petition, which is, accordingly, dismissed. No costs.

(Bilal Nazki, J)

20th September, 2006

(Nooty Ramamohana Rao, J)

LUR